

## **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

### **Examiner Interview and Allowable Subject Matter**

Applicant extends his sincere appreciation for the courtesies extended by the Examiner during the May 3, 2007 personal interview conducted at the U.S. Patent Office. A summary of the contents of the interview and the agreements reached therein are summarized in the following remarks. In addition, Applicant gratefully acknowledges the indication, at page 3 of the Office Action, that the subject matter of Claims 109-122 is in immediate form for allowance. By this Amendment, it is respectfully submitted that this entire application is now in form for allowance.

### **Summary of Office Action**

In the Office Action, beginning at page 2, Claims 128-135 were rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 4,725,644 to Schneider (the Schneider'644 patent).

### **Summary of Response to Office Action**

In Response to the January 25, 2007 Office Action, Applicant hereby amends claims 128-130, and 133, cancels claims 1-108, 123-127 and 136-240 without prejudice or disclaimer, and adds new claims 241-279. Accordingly, claims 109-122, 128-135, and 241-279 are currently pending. Claims 109, 128 and 251 are the only pending independent claims.

### **All Claims Are Allowable**

In the Office Action, beginning at page 2, Claims 128-135 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Schneider'644 patent or in the alternative

under 35 U.S.C. § 103(a) as being obviated by the Schneider'644 patent. Applicant respectfully traverses this rejection and requests reconsideration for the following reasons.

As discussed during the personal interview on May 3, 2007, the Schneider'644 patent fails to disclose or teach at least the feature of feeding silica particles into the chamber, as recited in claim 128.

It is a common patent law tenet that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In this case, the Schneider'644 patent fails to disclose at least the feature of feeding silica particles into the chamber, as recited in claim 128. Since the Schneider'644 patent fails to disclose each and every feature of claims, the Schneider'644 patent fails to anticipate claim 128.

With respect to the alternative rejection under 35 U.S.C. § 103(a), it is respectfully submitted that the Office bears the initial burden of establishing a *prima facie* case of obviousness. M.P.E.P. § 2142. If the Office fails to set forth a *prima facie* case of obviousness, Applicant is under "no obligation to submit evidence of nonobviousness," such as unexpected results or commercial success. *Id.* In other words, if the Office fails to meet the initial burden of establishing a *prima facie* case of obviousness as to a given claim, then that claim is not obvious without any specific evidence of nonobviousness by Applicant.

In order to establish a *prima facie* case of obviousness, the Office must satisfy three requirements. M.P.E.P. § 2142. First, "the prior art reference, or references when combined, must teach or suggest *all* the claim limitations." *Id.* (emphasis added). Second, the Office must show that there is "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." *Id.* Finally, "there must be a reasonable expectation of success." *Id.*

In the present case, as stated above, the cited reference fails to teach or suggests at least the above referenced feature of feeding silica particles into the chamber, as recited

in claim 128. Thus, the Office Action fails to establish a *prima facie* case of obviousness as to claim 128.

The Office Action fails to meet all three requirements for establishing a *prima facie* case of obviousness. Therefore, Applicant respectfully requests that the rejection of claim 128 under 35 U.S.C. § 103(a) be withdrawn.

Further, since claims 129-135 depend from and respectively incorporate all the features of claim 128, claims 129-135 are also not anticipated or obviated by the Schneider'644 patent at least for the above reasons for which claim 128 is not anticipated or obviated, and for the separate features that they recite. Thus, Applicant respectfully requests that the rejection of claims 128-135 under 35 U.S.C. §§ 102(b) and/or 103(a) be withdrawn.

### New Claims

New claims 241-279 are added to provide an alternate scope of protection for the invention. It is respectfully submitted that these new claims are also in immediate form for allowance. Early and favorable examination of all claims is respectfully requested.

### Conclusion

Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of this patent application is therefore respectfully solicited.

If the patent examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, they are invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees

necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account listed on Applicant's initial application filing transmittal document.

Respectfully submitted,  
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